

Kentucky Environmental Quality Commission

Public Forum

Meeting Minutes

July 27, 2005

Capitol Annex Room 125

Frankfort, Kentucky

EQC Commissioners Present

Lindell Ormsbee, Chair

Gary Revlett

Betsy Bennett, Vice Chair

Patty Wallace

Gordon Garner

New to the Commission

Dr. Andrew Ernest

Commissioners not attending

Laura Knoth

Eugene Zick

Speakers/Representatives Present

Lloyd Cress, Commissioner, Dept. for Env. Protection

Tom VanArsdall, Division of Water

David Gabbard, Chair, Inter-basin Coordinator

Committee of the Watershed Watches in Ky.

Judy Petersen, Director, Waterways Alliance

Margaret Shanks, Division of Water

Bill Caldwell, Division of Water

EQC Staff Present

Erik Siegel, Assistant Director

Mr. Lindell Ormsbee, Chair of the Environmental Quality Commission opened the meeting at 1:00 p.m. There were approximately 60 people in attendance. The Chair introduced EQC's newly appointed Commissioner, Dr. Andrew Ernest, Director of the Center for Water Resource Studies at Western Kentucky University.

The first order of business was to approve the minutes of the May 26 meeting. Gordon Garner made the motion, the motions was seconded by Gary Revlett, and passed unanimously.

The purpose of this meeting was to investigate Total Maximum Daily Load (TMDL) issues and needs in the Commonwealth. A TMDL is a calculation of the maximum amount of a pollutant that a water body can receive and still meet water quality standards.

The Chair introduced Mr. Lloyd Cress, Commissioner of the Department for Environmental Protection. Mr. Cress introduced Mr. Tom VanArsdall, Water Quality Branch Manager for the Department for Environmental Protection. Mr. VanArsdall gave a brief history of TMDLs and a PowerPoint presentation on watersheds and TMDLs. After the presentation Mr. Cress added that the task ahead is major and asked and answered the question, 'Is the TMDL method the best means to identify water impairments'. Mr. Cress said it is not a business-like way to solve the problem but the Cabinet is tied to it. He also believes that other opportunities ought to be kept in mind.

Question and Answer

L. Ormsbee

Do you have any specific ideas relative to other opportunities?

L. Cress

Not at this moment. Perhaps EQC can share its wisdom on the subject.

A. Ernest

The data is driven by collection. Can you explain the process? How does a segment get on the 305(b) list and then on to the 303(d) list? Is it data-driven? Is it biological data? Is it ambient water quality data? Is it citizen-driven information? What is the process?

T. VanArsdall

It is biological, water quality, bacteriological, and fish tissue data which has been collected and assessed for the use support for the designated uses. The citizen data to this point was used for screening purposes for bacteria sampling. The Division of Water went back to some of those places and re-sampled those areas and developed a list. Currently there is a process in place and data being collected by citizens' groups and will be used directly with the proper quality assurance and quality control (QAQC) for assessment purposes.

A. Ernest

Is the process for listing primarily driven by aquatic life assessments? Do you collect a subset of the prior-to-pollutant list? How do you go about identifying what we ought to be looking at this particular segment for? Do you have a feel for what the timeline is between any given segment being sampled during the regular basin segment cycle? Would you expect to hit the same segment maybe once every 10 years, once every 3 cycles?

T. VanArsdall

Most of the sampling was not selected to try to capture or look at certain potential types of impacts. They were simply placed at the downstream end of watersheds. Most all of our biological sampling was on the downstream end of fourth order watersheds. That is fairly close to what is now referred to as eleven digit which may go to twelve digit, watersheds on the range of 25 to 35 square miles somewhere in that area. The most water quality sampling which includes the bacteria is done at the downstream end of fifth order watersheds which are significantly larger. That was merely a response to the resources that were available to sample. We had a lot more biological resources from our other agencies to devote to this process than we did water quality sampling which tends to be a lot more expensive to get information to access. For example, aquatic life use than going out and collecting a biological sample on that reach. We tend to go back to many of the same sites every five years. I'm not sure that will continue, but that is the way it was done the first two cycles. The biological monitoring is the primary reason for most of the aquatic life use impairment decisions. Of course the bacteria sampling is bacteria data to access the recreational use. Fish tissue data is data to assess the fish consumption use.

G. Garner

Is there any good news in the bad news? We have long felt that because we have had so much unmonitored stuff out there that we were under reporting impairments. Have you had some sites out there that are unimpaired?

T. VanArsdall

What we have found is in the last five years there is about a 50/50. The Big Sandy and Little Sandy were much worse than the Kentucky and Salt Lick. We have statistics by river basins and by major river basins which is 13 instead of 5. We have found very good waters and more than 100 exceptional waters which get categorized in the anti-degradation rule. We are now up to 217

exceptional waters in the state and most were found by this watershed sampling effort. We have a pretty good census of these fourth and fifth order water sheds. That still does not get you anywhere near the number of miles in the state. The only way we try to do that is by this random biological sampling which then can statistically be applied to the entire population of wadeable streams and you can extrapolate that information to the total wadeable river miles in the state for 50 samples that you took at random that represent those wadeable stream segments.

G. Garner

Does that give you about the same 50/50 ratio of that sampling program?

T. VanArsdall

Again that depends on the basin. We would have to look at it in more detail. I don't know the summary figure for it. It tends to be a little bit worse. We are looking at smaller streams, whereas the fourth and fifth order streams are not typically that small. It looks down to the first order streams. A certain number of first order, second order, third order, and then applies that data to the entire mileage of those streams in that basin.

L. Ormsbee

Has the Division of Water documented how many streams may have been delisted that have been put on the 303 (d) List that can be directly correlated or related to some type of action taken to improve the water stream or water shed?

Ann

Assessed at a nonsource impact and it would be hard to get an exact number but I believe it was 40 segments for the first two years. There is a significant number that are being improved and sometime it takes a little bit of digging to understand why.

David Gabbard

Mr. Ormsbee introduced the next speaker, Mr. David Gabbard, Watershed Watch, Lexington. Mr. Gabbard gave a no nonsense way to get streams cleaned up. He believes streams can be cleaned up by taking a handful of doable watersheds, fixing them, and using them as models. He believes this can be done by using available resources:

- citizen volunteers and involvement
- loans and grants
- peer pressure
- the law

And then make the models visible to the:

- volunteers
- public
- state and local government.

He believes a healthy environment should be looked at as a business plan. A healthy environment is good for business and it is good for families. When the neighborhood businesses and the businesses within a watershed see how much a healthy water system or a trail system or educational projects add to the quality of life for people where they work and where they play, that is good for business. The citizens are the ones that can make it happen by working with the businesses that are there. Mr. Gabbard believes everyone wants a good quality of life and wants to do the right thing. He believes the people see the models, see the good communities, and want to bring it to their neighborhood.

Question and Answer

G. Garner

I'm not sure if you agree or disagree with Mr. Cress on TMDLs. Mr. Cress stated that TMDLs is not a business-like way to solve the problem. Is that what you are saying, or are you saying that TMDLs aren't necessarily relevant? You don't see TMDLs helping you deal with the stream impairment issues in Fayette County?

D. Gabbard

If you are asking me, is the TMDL process helping me do anything with the streams in Fayette County, I'd say "no".

G. Garner

Are there any TMDLs being done in Fayette County?

D. Gabbard

There are a couple of TMDLs floating, but resources (time, personnel) are limited. Mr. Gabbard said he does not have a storm water utility. He said he cannot convince folks to take the Division of Water seriously. Can the TMDL process, if well-funded, with people behind it ready to enforce the law work? Yes, it could work, but there has to be that willingness and if all that is done is create a bunch of engineering studies that get stuck on a shelf that is not going to help anybody. Maybe simultaneously, concurrently working on TMDLs yes, it could work, but then you have to go find funding. How do you get funded? You get funding by getting the attention of the politicians and show them what can be done. During the budget crisis in Fayette County in the past few years, the budget for Watershed Watch work went from \$500,000 for water quality money to \$170,000. What didn't get cut was the Water Quality Monitoring funding (this monitoring is essential to meet the state and federal requirements) and the Reforest the Bluegrass program. Everything else got cut. The reason the Reforest the Bluegrass did not get cut was because of the thousands of citizens who went out and planted thousands of trees did not want to see that program touched. That is what you do. Go out and create good programs, work with the community, work with the business and create a good centergestic process and that is beyond 303(d) that is up to 303 (e)—that's the management plans. At this moment, no, TMDLs are not helping me in Fayette County.

Tammy Sanderson—concerned citizen

One thing that does work as David said is getting the citizens involved. Citizens have nothing to loose. But what works in Washington State, Delaware, and California is these programs they call certification programs that teach the citizens what to look for and when you are driving to work and you see something going wrong there is an 800 number you can call. There are forms to fill out stating that "this is happening." I can drive to work every day and see infractions, but who do I call. How do I go about know which is wrong and which is right. One thing I am interested in is construction sites and their erosion control. You can drive all over Lexington and you can see there is no (or minimal) construction site management of silt going into streams. But as a citizen, how do I go about bring that problem to the attention of the officials. I am sure the officials know this, but there is no one to call. How do I go about changing that? As a citizen, you don't have to pay me to do that but give me a certification process so that you know I am trained and when I call you and say there is a problem, you know there is a problem and you can act on it.

B. Bennett

Sign this lady up for Watershed Watch!

A. Ernest

I have heard twice so far questioning the value and benefit of the TMDL program. I'd like some clarification whether it is the essence of the program that is being questioned in terms of its benefit or negative impact on business practices or if it is actually the local implementation of the 303 (d) process that is in question here.

L. Cress

I can give you my thoughts to it. I just don't think it sounds like a process that lends itself to identifying and solving a problem in a reasonable timeframe. It seems to be so laden with procedural requirements. It just seems as though we could identify, brainstorm and solve the problems as David focused on and identify those things we can solve and solve them without tying them to a procedure that is extremely heavy on the procedural end.

D. Gabbard

I agree with that. The Reforest the Bluegrass program I spoke of, I did not put a study together. I did not get an engineering study put together. I did not do a master plan. We just did it. To study something, create a model may be a good thing, but that does not necessarily translate into public action. It doesn't necessarily translate into solving the problem. Solving the problem is getting the citizens involved. I meet people all the time who ask, what can I do to help.

A. Ernest

I agree with David that you don't need to study the problem to death. You don't need science to identify a solution. A solution can be put into place right there on the spot with community involvement. There are others that are complicated and would cost serious dollars to correct and would make a lot of people unhappy. That is why the process needs to be the way it is and in those cases the TMDL process is there for us to execute it and do it in such a way that the receiving water is being protected in a timely fashion.

Judy Petersen

Mr. Ormsbee introduced Ms. Judy Petersen, Director of the Waterways Alliance. Ms. Petersen prefaced her presentation with a comment regarding proper funding. She feels that funding over all the environmental protection is lacking. She pointed out that without proper funding, employees cannot do the job they are charged to do. Funding cuts for environmental protection are of great concern to her.

Ms. Petersen presented her views concerning the status of polluted waters by the numbers. In 1998 Kentucky had about 350 polluted water body combinations on the 303(d) list. In 2002 that number was up to 950. By 2004 the number was up to 1,600 and by 2006 it will be greater than 2,000. Based on these numbers she stated that Kentuckians are looking at a projected average of 50 TMDLs a year and it is going to take a lot of years to take care of the problems. Studies show that water quality issues are considered very important to people. The Kentucky Environmental Education Council came out with a report last year that said again that water quality is a high priority for people and is one of the most important environmental concern with which the public identifies. It is serious and looming on the horizon. This message needs to come before the Executive Branch of Government and Legislative Branch that this is a crisis. Ms. Petersen said that we can't just throw money at the problem. We need to do more than that, but money is a significant part of the problem and we are under valuing the Department of Environmental Protection. Next, Ms. Peterson gave timeframes and assessment particularly in the two major watersheds, the Green Trade Water and the Big and Little Sandy Tygrets. Forty percent of the newly assessed waters make the 303 (d) list. Whether that trend will continue is anybody's guess. When waters are assessed that have never been assessed before, it seems that the findings are that

a significant number are not meeting all of its designated uses. The Kentucky Waterways Alliance supports and appreciates the transparency of the Division of Water where its data has indicated there is a problem. As TMDLs become an issue around the country, that is not always the case. Then Ms. Petersen stated that both the non profit and non government sides have said that TMDL lawsuits have been discussed. Because of significant concerns, the numbers, and timelines, groups have been trying to work within the system and try to see if the system will work. How much time we have before a lawsuit, no one knows but it is a concern. There are groups in the Commonwealth that are willing to file a lawsuit if that is what it takes to raise the profile of this issue to get more funding and resources to solve this issue. Litigation could be the death-nail some say, and some say that if there was a lawsuit maybe Region 4 would pay more attention to Kentucky. People feel both ways. Ms. Petersen said it would be much better to sit down and work on the problem rather than waste money on lawsuits. She commended the EQC for having this panel discussion and raising the profile. Next, Ms Petersen said that the Waterways Alliance is very concerned about the review of KPDES permits since Kentucky continues to issue new permits on streams that are on the 303 (d) list. Many have permits on there that would cause or contribute to the ongoing violations. Yet again, because there is no money to do TMDLs Kentucky is continuing to issue new permits and renew existing permits on streams that are 303 (d) listed. That could be one of the most significant issues that needs to be address. The Federal law 40 CFR 122.4 does say that no new permit may be issued to a new source or new discharger if the discharger from its construction or its operation will cause or contribute to the violation of water quality standards. Lastly, Ms. Petersen said that there really is a need to get more stakeholders involved in the process. There is a desire to get the public (particularly groups that work on stream issues, i.e., universities, non-profit groups, volunteers groups) to become more involved in this issue. The Kentucky Waterways Alliance is willing to work on this issue. One thing that the Kentucky Waterways Alliance is really looking forward to is a number of projects that create 319 watershed base plans in impaired waters. In the process there is a prescribed EPA formula for doing one including nine minimum criteria. It is a technical process. By doing these watershed base plans in a number of watershed, Kentucky Waterways Alliance hopes to involve the public to do the plan in a scientific, creditable manner that perhaps may avoid a future TMDL in that watershed and turning around the water quality problems without the need for a full TMDL.

Question & Answer

A. Ernest

I was curious especially with the focus on using biological assessments as a primary motive for the listing process for 303 (d) list, I am curious to see if we have ever made any assessments of the assessment process?

T. VanArsdall

I think what you are relating to is a bacteria assessment for recreational use where it is a geometric means of 5 samples taken in a 30 day period. That is one of the criteria for which recreational use can be determined although it is not one we typically use. I do think that our assessment protocol is very much in line with what is done nationally. The methods by which we assess our streams and data we collect are very valid and certainly all states do not do it all the same way. But there is consistency in the way states monitor and access their waters and there are guidelines published by EPA to do that. They are not required but when EPA proves your 303 (d) list the method by which those waters got on the stream there is in fact an approval of the methods by which that occurred. I believe that our process methods to do that are acceptable. We do use biological data. The biological community is what tells the story of how the resources react to the stressors rather than water quality sampling. When we do the biological work there are different signals which the biological community sends to what is affecting it plus the

observations when you are in the field plus the information from remote censoring, you have a pretty good idea maybe not a complete picture, but a pretty good idea of what the causes and the sources of the impairment are. I'm very confident in our assessment and our mythology protocol in assessment.

G. Garner

In just listening I wonder where is the disconnect occurring. I think it is mainly that we are so early on in the TMDL process. The TMDL is just a step to an implement plan to deal with impairments. We don't have a whole lot of impairment plans out there to address impairments. To the extent that we are not going to know how effective the TMDL process is until we do some more of that. On one hand there is the regulatory obligation of the Cabinet in issuing permits and doing what it needs to do. Then it goes right over to Dave in Lexington, and if Lexington is defunded what was once touted as a great and growing program to address urban water quality issues and the streams, then there ought to be, when there permit comes up for renewal, it ought to be an issue. Same thing in Louisville, Northern Kentucky, and cities that have urban and storm water plans, those are intended to be serious and there should be consequences for not doing the things they are suppose to do. When permits and things come up in these impaired water bodies that have been identified in TMDLs, it does give the Cabinet the basis for taking action, the Division of Water, and also gives third parties some kinds of an easy in. Usually when there is a significant impairment it can be traced and when somebody brings the matter to the courts the courts are going to uphold the TMDL process. I agree with Lloyd, it would be nice if we were proactively doing things so that we didn't have to do so much regulation but we are not going to be proactive unless we fund it. That gets to everything we do. I would commend the Cabinet in terms of the quality of work they do and credibility they have in how those things are being done. And also the fact that we have 217 exceptional waters when we started with zip. Now we have done that and clearly that is a framework for protecting some of our most valuable resources. But I also think that we are doing foundation work for what's next. Doing the TMDL is just opening the door for the what's next.

T. VanArsdall

I want to make a comment about the problem with the TMDL process. EPA does allow streams to be addressed by implementing management practices and taking them off the list without doing a TMDL if it is done in a reasonable period of time. I think we are coming to an agreement that it is a very desirable thing to do and it would behoove us in as many cases as possible to address the problems and try to fix them and get them off the list as soon as possible without having to demonstrate the management practices that we will implement to fix the problem. It will not work for all, but we need to utilize that when it can be done. The thing the Cabinet is doing is getting the citizens groups involved to address the problems out there, whether you have the TMDL process in place or not. Where possible we can identify things that can be done in the next three or four years that will result in the removal of that stream from the impaired water list and it takes it off from having a TMDL performed. We should look at that wherever we can.

Teena Halbig, Jefferson County, Floyd's Fork Environmental Association

I'd like to echo Judy's concerns about KPDES permits and being on 303 (d) list, but I like to point out a problem that KPDES permits are not being renewed at five years. For some permits they are continuing on and they are not being renewed. That denies the public the right to come forward with problems and we don't have an avenue through that. Another problem is plants that are listed on sewer sanction should be scrutinized much more so they are being done whether it is for pollutants or capacity problems.

Mark Holt, Chairman of the Kenton County Conservation District

To answer Commissioner Cress's question, 'is there a better way to deal with TMDLs or is there a supplemental way', I think back to 1999 when one of the characteristic of the framework process was a parallel process (if not a parallel universe) to doing the TMDL thing in a better way that would connect with local officials and the Conservation Districts. We would like to get involved in this process. We followed the framework process which should have resulted in a series of watershed plans, first a basin plan, then a watershed action plan for a watershed like Bank Lick which was mentioned as one of the watersheds for which there is a third party TMDL going on. We have a watershed council that has been created as an outgrowth of the framework process and we got a 105 (b) 3 grant in order to put together a watershed action plan. In this other parallel universe which is the regulatory arena, we have the TMDL process going forward with the sanitation district who also got a 105 (b) 3 grant and also working on the TMDL. You would think that at some point, since both of the actions of the framework and the actions of the regulatory folds are driven by the 303 (d) list, that we would unite and come together at some level of putting a plan together for the watershed. What we find is the 104 (b) 3 grant that the US EPA gave to Bank Lick proposes a watershed permitting process and adaptive watershed management process (which are other ways of doing TMDLs) that skips the stakeholder involvement process. So we find ourselves with two entities that have 104 (b) 3 grants to put together watershed plans and we have no access to the watershed plan put together by the sanitation district. There needs to be some help from the folks that have the badges that have the authority from the Clean Water Act to give some authority to these local groups that were purposely put together as part of the 8-year process to force the regulated community to speak to the rest of the stakeholder groups so that we can put together a plan and it may not be a TMDL.

My comment or request is that as we put together local groups, that can bring local action, and local funding (local funding is key here because federal dollars because state dollars will never satisfy the needs at the local level, but sanitary sewer moneys, and water moneys, and rate payers' moneys can) that we get some help from the Division of Water in terms of providing additional support in helping us talk together.

Jim Gilford, Northern Kentucky Water Sentinels

Stakeholder involvement is really key to success. One of the serious mistakes that Sanitation Districts #1 has made in Northern Kentucky is they have excluded the public, whether consciously or unconsciously from the development of plans and processes, and as a result have stimulated lawsuits which has cost more money and slowed the process. If you simply do the right thing and get people involved from step one, 90 percent of the time you will avoid that kind of environment. I'm hoping that the processes underway between the Department for Environment Protection and Sanitation District #1 will take that into consideration. The citizens in Northern Kentucky really want to be involved in a positive way to help the process. The best way to avoid law suites is to insist that stakeholders be involved at step one not after plans have been developed.

(Unidentified speaker)

We talked about TMDLs and noted that there was a lot of money coming though the Farm Bill to Kentucky. I want to commend the Department of Environmental Protection, the Division of Conservation and the Division of Water for coming together and having a map showing a coordinated effort to prioritize watersheds in consort with region 4 that is looking for funding. Going back to the fundamental of what the framework was all about--making sure that everyone is on the same page, we have a map so we can concentrate our efforts and get some results in locations where those interests intersect. It's all very positive.

J. Petersen

In terms of TMDL implementation, one of the things that we are going to need is the flow data. We are losing flow gages in the Commonwealth on major rivers particularly on the Cumberland and Cumberland River basin but very likely throughout the state. When we look at funding and what we are going to need to do TMDLs right, not to mention protecting the public on flooding and other things, but we are going to need those flow gages. If we lose the flow gages, then we are not going to be able to do the work we need to do and protect the public from flooding and other things.

After a question/answer and discussion session Mr. Ormsbee thanked the speakers and the comments from the audience. Mr. Ormsbee mentioned to the speakers the possibility of EQC having a meeting possibly in the spring to address the issues of TMDLs. Commissioner Cress said the Department of Environmental Protection would strongly support such a gathering and suggested that perhaps the subject be expanded beyond TMDLs to address Kentucky's impaired waters as a broader subject. Ms. Petersen said she too believed the Water Ways Alliance would support that effort and participate and would encourage other board members and leaders to participate as well.

Margaret Shanks and Bill Caldwell, Division of Water

Mr. Caldwell spoke to the Commission at the May 26 meeting concerning Water Regulation KAR 4:010. At that time the Commission discussed recommending that the Division of Water and the Environmental and Public Protection Cabinet incorporate public notice and interagency notification requirements for water withdrawal permits but voted to postpone action on this regulation until the next meeting. Mr. Caldwell came to this meeting to revisit the regulation and to take questions not asked at the May meeting because EQC did not have the statement of consideration (SOC) in hand.

G. Garner

Is there a reason why there was no response to EQC's letter recommending that the Division of Water incorporate public notice and interagency notification requirements for water withdrawal permits?

M. Shanks

Our intention was that it is responded to in the SOC. Tom FitzGerald also made that comment and Division of Water felt that it was the same comment and our answer is the same. I personally agree that a public process would be very important in water control regulations. This particular regulation was very small in nature. That is a larger question in water control regulations, and we do indeed intend to work on those larger issues.

B. Caldwell

There is the public notice requirement for potentially adverse impact withdrawals related to inter-basin transfers. We have that and we do have those on the books. Relative to the new regulation, it was focused on this one issue and we felt that in order to really look at public notice, which none of our state programs do have a public notice requirements--others do, but our dam safety and flood bank construction, water withdrawal permits don't have a public notice. And one of the reasons, in our case, there are a lot of withdrawal that simply ask, why have a public notice for such a minor withdrawal in such a large water body; why have all these hearings for these withdrawals that may not impact to a greater extent the water at all. The other thing is, if you think about public notice, we wanted to focus first on water withdrawal regulations as a whole and then public notice related to those that will have the impacts. We felt that we could address it in the larger regulation review.

B. Bennett

When do you expect the larger regulation review to happen?

B. Caldwell

We are working on developing some tools that will allow us to answer some of the questions you have asked and that Mr. Tom FitzGerald has asked related to, 'how do you know what is available and how do you determine on a watershed scale what impacts you might be having based upon accumulative withdrawals.' We want to use those tools which will be light-years ahead of what we can do now and those are under development. I don't have a time frame but I'd say it is within a few years.

L. Ormsbee

I understand some of the issues you have raised. My concern is that we have just heard two hours of discussion underscoring the importance of stakeholder involvement and involving the public. While I certainly understand some of the practical issues of trying to move regulations forward in a piece mill manner and trying to have the perfect thing, it seems to me that given some of the issues we have experienced in Kentucky regarding droughts and other concerns, I am a little concerned that we don't have at least some type of provision in the regulation that would provide some type of venue for public involvement. I understand there is a commitment here to try to address this later but I have to recognize the pragmatic issues of the level of support that this cabinet seems to be getting both fiscal and personnel support. It is not a guarantee that things will ever basically come about based on expectations. I have some concerns that at least our comments--I know there has been an attempt to address those collectively through Mr. Fitzgerald's comments but I was hoping to see a little more substance in addressing these. It sounds to me that these regulations have already been approved by the regulation review subcommittee. None the less, we as a Commission still have an obligation to make a decision whether we are wanting to enforce this as you brought it or there may be some other perspective. I will entertain a motion either way from the Commission.

Gordon Garner made a motion that EQC reject approval of KAR 4:010 of water withdrawals because of a significant defect in the current regulation that fails to include provisions for both public notice and interagency notification. The motion was seconded by Betsy Bennett and passed unanimously.

Other Business

Mr. Ormsbee recognized Gary Revlett and thanked him for his support and years of service to the EQC. Mr. Ormsbee also recognized Mr. Erik Siegel and thanked him for his years of service as staff support to the EQC and presented him with a gift as a token of appreciation.

The budget was discussed for fiscal year 05 and 06. For fiscal year 05, EQC over spent its budget, however the Cabinet supported EQC with funds to cover expenses. For fiscal year 06, it is predicted that again EQC will over spend its budget and that the Cabinet will use restricted funds to cover the difference. The Personnel and Operating budget for fiscal year 06 will be basically the same as 05.

Mr. Ormsbee gave an update on the search for new Executive Director. Mr. Scott Smith, the Acting Director for EQC has indicated that this is on Secretary Wilcher's priority list. They hope to have someone in place by September.

This month's EQC indicator is Hazardous Air Pollutants. The air task force has completed their study, but the findings have not been made public.

The next EQC meeting will be in September. The topic will be mountain top removal.

With no further business, the meeting adjourned.

Signed Lindell Ormsbee, Chair

Date